

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

THOMAS W. SHADWICK,)
v.)
Plaintiff,)
MICHAEL J. ASTRUE,)
Commissioner, Social Security Administration,)
Defendant.)
Case No. 09-CV-739-GKF-FHM

OPINION AND ORDER

Before the court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Frank H. McCarthy. (Dkt. #27). No objections were filed to the R&R. The Magistrate Judge recommends that plaintiff Thomas W. Shadwick (“Shadwick”) be awarded fees for legal work totaling \$4,890.05 (Four thousand, eight hundred ninety dollars and five cents) under the Equal Access to Justice Act (“EAJA”). 28 U.S.C. § 2412. The parties both agree that such an award is proper.

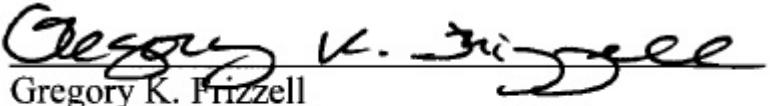
The court has reviewed the R&R and finds that an award in the amount of \$4,890.05 is appropriate. The Report and Recommendation of the Magistrate Judge (Dkt. #27) is accepted and adopted here by reference.

The court orders that Shadwick be awarded attorney fees pursuant to 28 U.S.C. § 2412 in the total amount of \$4,890.05 to be paid by the Commissioner of the Social Security Administration, subject to offset for debts to the federal government. The fee shall be made payable to Shadwick in care of his counsel. Plaintiff's counsel will reimburse Shadwick the smaller of either the EAJA award or any subsequent award under 42 U.S.C. § 406(b), should one

ultimately be authorized and paid. *See Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

WHEREFORE, the Report and Recommendation (Dkt. #27) is accepted, and the Plaintiff's Application for the Award of Attorney's Fees Under the Equal Access to Justice Act (Dkt. #24) is granted.

IT IS SO ORDERED this 6th day of May, 2011.


Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma